SA2005RF0096

PAUL McCAULEY
CERTIFIED PUBLIC ACCOUNTANT
3303 PICO BOULEVARD, SUITE # C
SANTA MONICA, CA 90405

(310) 829-6247
FAX: (310) 829-9068
E-MAIL: pmcca28169@aol.com

RECEIVED
AUG 24 2005
INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

August 22, 2005

Office of the Attorney General
Tricia Knight, Initiative Coordinator
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550

Dear Ms. Knight:

I request a Title and Summary for the enclosed proposed Constitutional Amendment/Statutory Initiative. The statutory fee of $200 is enclosed.

I have enclosed, also, my own estimate of the fiscal impact of the measure.

Would you please direct all correspondence regarding the initiative to me at the name and address above. I am hearing impaired and so much prefer not to attempt a discussion of technical matters over the telephone. E-mail communications are much preferred.

I can be reached at pmcca28169@aol.com.

Further, I am willing to travel to Sacramento to discuss any matters regarding the initiative measure that I am proposing. I hear quite adequately in person to person contact. Sorry for the communications hassle, but nature dealt me a bit of a bummer.

I thank you in advance for your time and skills.

Very truly yours,

Paul McCauley, CPA

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THE McCAULEY-ROOKER TAX EQUITY AND FISCAL RESPONSIBILITY ACT

SECTION 1. Title

This Act shall be known as and may be cited as "The McCauley-Rooker Tax Equity and Fiscal Responsibility Act."

SECTION 2. Findings and Declaration of Purpose.

The people of the State of California find and declare that:

(a) The concentration of private wealth in the hands of the few is inconsistent with the tenets of a democratic society;

(b) Staggering sums of wealth have come to be concentrated in the hands of a tiny percentage of the population coinciding with growing poverty for tens of millions of Americans, declining living standards and worsening economic insecurity for tens of millions more, coupled with an intensified assault on social services and an ongoing decline in the basic infrastructure of the economy;

(c) There has been, since the end of World War II especially, a massive shift in wealth and income from the poor and the middle class in America, to the rich and wealthy, and that Californians have not escaped this phenomenon;

(d) Elected public officials in America are wholly beholden to the wealthy and financial elites and do their bidding at the expense of the well being of the body politic, and that Californians have not escaped this phenomenon;

(e) California's public officials have been deaf to the need for universal access to health care; that they have driven the cost of higher public education beyond affordability for many; and that they have made the personal income tax increasingly regressive;

(f) California public officials have neglected to provide funds to meet necessary and essential infrastructure development, repairs and improvements, notwithstanding a massive increase in population, including but not limited to remedying a dysfunctional transportation system;

(g) This Act serves to level the great disparities in wealth between Californians, to restore a progressive personal income tax structure, to provide funds for bullet trains, environmental clean up and restoration, to provide funds to meet the health insurance requirements of all Californians, to substantially reduce the cost of attending California's public institutions of higher learning and to serve other essential public needs and purposes.

SECTION 3. Section 1 (d) of ARTICLE XIIIA of the California Constitution is added to read:

Sec. 1. (d) Notwithstanding any other provisions of law or of this Constitution, the limitations set forth in Section 1 (a) of ARTICLE XIIIA of this Constitution shall not apply to taxes upon Wealth as set forth in Section 13305 of the Revenue and Taxation Code.

SECTION 4. Sections 13305 through 13307 are added to the Revenue and Taxation Code to read as follows:

Section 13305. WEALTH TAX. The State of California adopts United States Internal Revenue Code, as amended through December 1, 2004, Sections 2001 through 2704, inclusive, except as hereinafter provided, and makes them a part of the Revenue and Taxation Code by reference, effective January 1, 2007, or as soon thereafter as provided by law. Wherever the Internal Revenue Code Sections 2001 through 2704, inclusive, use the term "executor" or "decedent" or any combination thereof, the term "taxpayer" shall be substituted therefor. The date January 1, 2007 shall be substituted wherever the term "time of death" or "date of death" or a similar term is used.

(A) Section 2001(a) is amended to read: A tax is hereby imposed on the taxable estate of every person who is a resident of the State of California on January 1, 2007. This tax is applicable to individuals, natural persons only.
(B) Section 2002 is amended to read: The tax imposed by this chapter shall be paid by the taxpayer.
(C) Section 2010(a) is amended to read: A credit of the applicable credit amount shall be allowed to the estate of every taxpayer against the tax imposed by section 2001.
(D) Section 2010 © is amended to read: The applicable credit amount shall be $20 million.
(E) Section 2031(a) is amended to read: The value of the gross estate of the taxpayer shall be determined by including, to the extent provided for in this part, the value on January 1, 2007 of all property, real or personal, tangible or intangible, wherever situated.
(F) Section 2033 is amended to read: The value of the gross estate shall include the value of all property to the extent of the interest therein of the taxpayer on January 1, 2007. Neither minority interest discounts nor lack of marketability discounts shall diminish the value of any item included in the gross estate.
(G) Section 2055 is stricken in its entirety.
(H) Section 2056 is stricken in its entirety.

(I) Section 2057 is stricken in its entirety.
(J) Section 2058 is stricken in its entirety.
(K) Sections 2201 through 2210, inclusive, are stricken in their entirety.
Chapter 12 (Gift Tax) and Chapter 13 (Tax on Generation-Skipping Transfers) are stricken in their entirety.

SECTION 13305.1. *Hasta la Vista Provision.* Any person who abandons his or her residency in the State of California, at any time on or after January 1, 2006, who has or had been a resident of California for five years or more as of January 1, 2006, continuously or at any time, shall be liable for the tax under Section 13305.

SECTION 13306 . Every person who is liable for tax pursuant to SECTION 13305 shall make a declaration thereof on a tax return (CAL 706) and shall timely file the tax return on or before September 30, 2007. An extension of time to file the tax return for up to six months may be granted upon a showing of need, but at least 50% of the tax ultimately determined to be due must be paid with the application for the extension to file, or the extension to file request will be deemed invalid. If the extension to file request is deemed invalid, then the taxpayer shall be assessed the penalties for late filing a tax return, late payment of tax and interest pursuant to SECTION 13307, except on the showing of reasonable cause

SECTION 13307. The tax payable by any taxpayer pursuant to SECTION 13305 shall be payable, as follows: One-third of the total tax liability shall be paid on or before September 30, 2007 and the remaining two-thirds of the tax due shall be paid on or before September 30, 2008. The tax shall be payable to the general treasury of the State of California. The penalties for a taxpayer's failure to timely file a personal income tax return, to timely pay the taxes due thereon and the penalties for filing a false or misleading personal income tax return shall be applicable to taxes payable pursuant to SECTION 13305 and the tax return filed or required to be filed pursuant to SECTION 13306.

SECTION 5. Section 17064 is added to the Revenue and Taxation Code to read:

Section 17064. There shall be allowed a credit, refundable to the extent that the credit exceeds the tax liability due on the final personal income tax return of the decedent, of every California resident whose estate pays a tax to the United States pursuant to Internal Revenue Code Section 2001. The credit shall be determined by recalculating the tax due under the Internal Revenue Code, Sections 2001 and 2010, as if the taxpayer were entitled to a unified credit of $4,500,000. The taxpayer shall be entitled to a credit under the Revenue and Taxation Code equal to the lesser of the actual tax paid to the United States or $4,500,000 but in no case shall the credit exceed the actual taxes paid to the United States. The lawful right to the credit is that of the heirs, alone, not that of the decedent. The right to the credit accrues only upon the date of filing of the final personal income tax return of the decedent.

SECTION 6. Section 17065 is added to the Revenue and Taxation Code to read:

Section 17065. There shall be allowed a credit, refundable to the extent that the credit exceeds the tax liability of the taxpayer, for an amount equal to the rent loss sustained by any owner of rental property in California, where such rental property is subject to a rent control ordinance of any kind. The rent loss is defined herein as the gross rental dollars that would have been received by the owner of the property, during his or its tax year, except for limitations imposed on the allowable rental charge pursuant to the rent control ordinance. In no circumstances shall a rental loss be computed in respect of rental units that are wholly or partially vacant. Any taxpayer claiming a rental loss tax credit pursuant to this part that exceeds by 20% or more the amount of loss finally determined by the taxing authorities or any reviewing body of competent jurisdiction, or agreed upon by the taxpayer, shall forfeit the entirety of the credit for that tax year.

SECTION 7. The following sections of the Revenue and Taxation Code are stricken in their entirety:

13301, 13302, 13303, 13303, 13304, 17039.1, 17041(h), 17048, 17052.2, 17052.60, 17052.80, 17052.10, 17053.6, 17053.7, 17053.12, 17053.14, 17053.30, 17053.33, 17053.34, 17053.36, 17053.37, 17053.42, 17053.45, 17053.46, 17053.47, 17053.49, 17053.5(j), 17053.57, 17053.70, 17053.74, 17053.75, 17053.84, 17054, 17054.1, 17054.5, 17054.7, 17057.5, 17058, 17062, 17062.3, 17063, 17073.5, 17077©, 17083, 17504, 17506, 17507, 17507.6, 17508, 17509, 17510;

Chapter 2.5 (Alternative Minimum Tax for Corporations), 23400 through 23459, inclusive, 23361©; 23362 – the term(s) "common carrier by railroad" and "common carriers by railroad" are stricken wherever they appear, 23604, 23608, 23608.2, 23608.3, 23609, 23610, 23610.4, 23610.5, 23612.2, 23617, 23617.5, 23621, 23622.7, 23622.8, 23624, 23630, 23633, 23634, 23636, 23637, 23642, 23645, 23646, 23649, 23657, 23684; 23701(a), 23701(b) and 23701(c) are stricken;

23703, 23771-23778, inclusive are stricken, except as provided by SECTION 14, below. (It is the intent of this part that the determination of nonprofit status and all enforcement activities with respect to nonprofit organizations will be the responsibility of the Internal Revenue Service alone and to eliminate the duplicate filing and enforcement activities on the taxpayers and organizations involved, which are an oppressive and unnecessary burden);

SECTION 8. Revenue and Taxation Code Section 23153(d)(1) is amended to read:

"Corporations subject to the minimum franchise tax shall pay annually to the state a minimum franchise tax of two hundred fifty dollars ($250).

SECTION 9. Revenue and Taxation Code Section 17079 is added to read:

Section 17079. Notwithstanding any other provision in the Revenue and Taxation Code to the contrary, for all taxpayers, gains and losses from the sale, exchange or other taxable disposition of property shall be determined under the relevant provisions of the Internal Revenue Code. This section applies as well to the recognition of all passive-activity gains and losses, including limitations on the annual deductible amount. Distributions from deferred compensation accounts, including but not limited to, Individual Retirement Accounts, Keogh Accounts, 401(k) plan accounts and all such similar deferred compensation accounts, shall be reportable on the taxpayer's California Personal Income Tax Return as under his or her United States Income Tax Return. Deductions for depreciation, cost recovery, amortization or any like method of cost allocation or depletion, shall be determined under the relevant provisions of the Internal Revenue Code.

SECTION 10. Revenue and Taxation Code Section 23151(f)(1)(B)(3) is added to read:

Section 23151(f)(1)(B)(3). For taxable years beginning on or after January 1, 2007, the tax imposed under this section shall be a tax according to or measured by net income, to be computed at the rate of 4 percent upon the basis of the net income of the taxable year, but not less than the minimum tax specified in Section 23153.

SECTION 11. Revenue and Taxation Code Section 17041.5 is amended as follows:

The second paragraph is stricken, which reads:

> "This section shall not be construed so as to prohibit the levy or collection of any otherwise authorized license tax upon a business measured by or according to gross receipts."

SECTION 12. Revenue and Taxation Code Section 17053.5 is amended as follows:

Section 17053.5(a)(1)(A). *For married couples filing joint tax returns, heads of household and surviving spouses (as defined in Section 17046) the credit shall be equal to one thousand dollars ($1,000) if adjusted gross income is fifty thousand dollars ($50,000) or less.*

Section 17053.5(a)(1)(B). *For all other individuals, the credit shall be equal to one thousand dollars ($1,000) if adjusted gross income is fifty thousand dollars ($50,000) or less.*

SECTION 13. Revenue and Taxation Code Section 17041(j) is added to read:

Section 17041(j). For every taxpayer who is a resident of California for the tax year, or any part thereof, there shall be computed and paid an additional tax, in addition to all other taxes provided for in this section, in the amount of 12% of the taxpayer's taxable income, for taxpayers whose adjusted gross income exceeds $250,000 in the case of married taxpayers filing joint tax returns or $200,000 in the case of single taxpayers and taxpayers filing as head of household. Married taxpayers filing separate tax returns will each be liable for the additional tax pursuant to this section if the combined adjusted gross income of both spouses exceeds $250,000. The tax imposed by this part is not a surtax.

SECTION 14. Notwithstanding SECTION 7 of this measure, the following organizations shall remain liable for filing exempt organization returns pursuant to Revenue and Taxation Code Sections 23771 through 23778, inclusive, and shall further be entitled to declare a refundable tax credit thereon, annually, in the following amounts:

The Center For The Improvement of Child Caring (23-7385759) 11331 Ventura Boulevard, Suite 103 Studio City, CA 91604-3147	$15,000,000
The Nature Network, Inc. (95-4218169) 3145 Coolidge Avenue Los Angeles, CA 90066	$ 2,500,000
People's Advocate (94-2514755) 3407 Arden Way Sacramento, CA 95825	$ 7,500,000

To the extent that the credit provided for by this section exceeds any taxes otherwise payable by the organization, the Franchise Tax Board shall pay the difference to the organization within ninety (90) days of the filing of its return for a given year. The credit provided for by this section shall be paid in respect of information returns filed for the year 2006 and each year thereafter. It is the intent of this section that the first payments to the specified organizations will be paid not later than August 15, 2007 under any circumstances.

SECTION 15. Revenue and Taxation Code Section 17066 is added to read:

Section 17066. There shall be allowed to all persons who teach in a qualified educational institution or facility in California a credit, refundable to the extent it exceeds the tax liability of the taxpayer, in the amount of 30% of the total remuneration received during the year for providing teaching services. The maximum remuneration to be taken account of shall be the annual wage-base limit in a given year pursuant to the Federal Insurance Contributions Act (commonly called the social security contribution wage base).

Eligibility for the refundable credit is not limited to credentialed teachers alone, but is allowable to all persons as well who teach in any institution of higher learning in California, public or private, and to those who teach in a kindergarten, elementary, secondary or vocational-technical school located in California, public or private.

The credit, to the extent it exceeds the "net tax" otherwise provided for by section 17039, is refundable upon the filing of the taxpayer's personal income tax return for the year.

This section is to be broadly construed to accomplish its purpose of providing a substantial supplement to the annual compensation of those engaged full or part-time in the honorable profession of teaching. Its further purpose is to elevate the compensation levels of teaching professionals who have heretofore not been compensated as professionals.

If any court of competent jurisdiction finds that any part of this section is unconstitutional on the basis of a violation of the doctrine of church-state separation, then this section shall not apply to persons or to groups of persons whom the court finds to be ineligible, but shall remain valid for all other persons.

SECTION 16. Revenue and Taxation Code Section 17067 is added to read:

Section 17067. There shall be allowed to all persons who pay tuition or fees to a public institution of higher learning in California, a refundable tax credit in an amount equal to 85% of the tuition or fees paid during the year, up to the following amounts of tuition or fees:

The Universities of California (Undergraduate)	$ 8,000
The Universities of California (Graduate and Professional Schools)	$18,000
The California State Universities and Colleges	$ 4,000
Any Community College in California	$ 1,000

The taxpayer who pays the tuition or fees is the one who is entitled to claim the credit. Tuition or fees reimbursed by grants, scholarships, fellowships, gifts and the like are not eligible for the credit. No family or kinship relationship between the student-attendee and the taxpayer claiming the credit needs to be established to be eligible to declare the credit.

SECTION 17. Revenue and Taxation Code Section 17068 is added to read:

Section 17068. A refundable tax credit of $5,000 shall be allowed to the estate of any decedent whose body organs were donated and accepted for transplantation purposes. Donations of corneas are subject to a maximum credit of $500. This part intends that donations of hearts, kidneys, pancreas, livers and other vital organs and reusable body parts will be encouraged to donate them due to the availability of this credit. The credit may be claimed on the final income tax return of the decedent. The Legislature may adopt legislation that allows for the immediate payment of this credit to the estate of a decedent, upon application by the decedent's heirs or executors, so that the funds provided by this section may be available to pay the burial or medical costs of the decedent, and for those purposes alone.

SECTION 18. Revenue and Taxation Code Section 17069 is added to read:

Section 17069. Individuals who have no health insurance coverage may purchase a health insurance policy and receive a refundable tax credit of 85% of the cost of the health insurance policy. A maximum refundable credit of $8,000 shall be allowed per household –husband, wife and children, unmarried taxpayer and dependents, unmarried taxpayer alone or any other family unit. A taxpayer must be a lawful resident of California to claim the credit. For purposes of this part, Medicare coverage is considered to be insurance coverage; MediCal and Medicaid are not considered to be insurance coverage. In lieu of the tax credit provided by this part, the Legislature may establish a policy or policies of health insurance (a minimal or specified package of benefits) and require eligible taxpayers to accept a voucher in lieu of the tax credit with which to purchase the policy.

Taxpayers who are covered by Medicare may purchase up to one additional "medigap" policy and receive a 50% refundable tax credit for the cost of the policy. A maximum refundable tax credit of up to $2,500 per taxpayer is allowed by this part. In lieu of the tax credit provided for by this part, the Legislature may establish a policy or policies of health insurance (a minimal or specified package of benefits) and require that eligible taxpayers accept a voucher in lieu of the refundable tax credit with which to purchase the policy.

Taxpayers who pay premiums under Medicare Parts A or B, or both Parts A and B, shall be allowed a refundable credit equal to 85% of such premium(s).

SECTION 19. Revenue and Taxation Code Section 17070 is added to read:

Section 17070. A taxpayer who is liable for and pays property taxes on his or her personal residence shall be allowed a refundable tax credit, in the amount that the property taxes exceed 1% of the taxpayer's adjusted gross income, not to exceed a credit of $5,000. The credit so allowed is refundable to the extent that it exceeds the taxpayer's tax liability. Only lawful residents of the State may claim this credit. Married individuals may claim this credit only on the filing of a joint income tax return for the year the credit is claimed.

SECTION 20. Effective Date

Except as otherwise provided for herein, the provisions of this measure shall be effective for fiscal years beginning on or after January 1, 2007.

SECTION 21. SEVERABILITY PROVISION

If any chapter, article, section, subsection, clause, sentence or phrase of this part which is reasonably separable from the remaining portions of this part, or the application thereof to any person, taxpayer or circumstance, is for any reason determined unconstitutional, such determination shall not affect the remainder of this part, nor, will the application of any such provision to other persons, taxpayers or circumstances, be affected thereby.